

² The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal. 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish right shoulder and cervical spine conditions causally related to the accepted factors of her federal employment.

FACTUAL HISTORY

On September 24, 2018 appellant, then a 48-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she developed tenosynovitis while in the performance of duty. She noted that she first became aware of her condition on September 26, 2017 and attributed it to factors of her federal employment on June 27, 2018. On the reverse side of the claim form, the employing establishment indicated that appellant stopped work on October 22, 2017.

In a statement dated August 18, 2018, appellant explained that she worked as a mail handler for almost 20 years and her job duties included pushing hampers and wire containers on and off tracks and elevators and lifting tubs and trays of mail onto belts and into containers. She indicated that she used her arms and shoulders constantly to lift, push, pull, and reach for equipment and mail. Appellant reported that on September 26, 2017 she felt some discomfort in her arm and shoulder and, as she continued to work, her symptoms worsened.

Appellant submitted a November 2, 2017 magnetic resonance imaging (MRI) scan of her right shoulder and cervical spine. The right shoulder MRI scan revealed mild infraspinatus tendinosis and moderate acromioclavicular joint degeneration changes with inferior osteophytes mildly impressing upon the underlying supraspinatus myotendinous junction and the MRI scan of the cervical spine showed central disc herniation at C3-4.

OWCP also received medical reports from Dr. Howard Freedberg, a Board-certified orthopedic surgeon. In his June 27, 2018 report, Dr. Freedberg indicated that appellant presented with complaints of pain and muscle spasms in her right shoulder and neck radiating down to her arm and hands. Appellant also reported tingling, numbness and weakness in her right arm. Dr. Freedberg noted that appellant worked for the employing establishment for 20 years and attributed her condition to repetitive use of her back and shoulders. He diagnosed right shoulder bursitis/tendinitis, shoulder bicipital tenosynovitis; cervical radiculitis, and C3-4 disc herniation. Dr. Freedberg opined that repetitive lifting, pushing and pulling of equipment and mail weighing up to 75 pounds, in the performance of her job duties, were the direct cause of appellant's condition.

In follow-up reports dated July 25 and August 22, 2018, Dr. Freedberg reiterated his opinion that appellant's work duties were the direct cause of her right shoulder and neck conditions.

By development letter dated October 3, 2018, OWCP notified appellant of the deficiencies of her claim. It advised her of the factual and medical evidence necessary to establish her claim and also provided a questionnaire for completion. OWCP afforded appellant 30 days to submit the necessary factual evidence and medical evidence.

In a work duty status form report dated September 26, 2018, Dr. Freedberg marked a box indicating that appellant was medically unable to perform her work duties due to her diagnosed right shoulder and cervical conditions.

In an October 25, 2018 response to OWCP's questionnaire, appellant indicated that her work duties included pushing and pulling postal equipment full of mail and lifting tubs and trays of mail eight hours per day, five days a week for the past 20 years of her employment with the post office. She also noted that she did not engage in any outside activities that she believed contributed to her conditions.

In a letter dated November 14, 2018, Dr. Freedberg noted that he first treated appellant on October 30, 2017 for shoulder and neck pain from a work accident that occurred on September 26, 2017 when she felt a pop in her right arm and neck while pushing a container of mail. He explained that initially appellant sustained a traumatic injury³ that appeared to resolve, however, her symptoms returned and it was his opinion that repetitive lifting, pushing and pulling of equipment and mail that weighed up to 75 pounds had a direct causal relationship to her condition.

By decision dated December 3, 2018, OWCP denied appellant's claim, finding that the evidence submitted was insufficient to establish that her conditions were causally related to the accepted factors of her federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,⁵ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁶ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or

³ Appellant has a prior claim for an October 21, 2017 traumatic injury under OWCP File No. xxxxxx820 which was accepted for strain of the triceps muscle. Appellant's claims have not been administratively combined.

⁴ *Supra* note 1.

⁵ *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ *S.C.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁷ *S.C.*, *id.*; *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.⁹ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.¹⁰ Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish right shoulder and cervical spine conditions causally related to the accepted factors of her federal employment.

In Dr. Freedberg's June 27, July 25 and August 22, 2018 medical reports, he opined that repetitive lifting, pushing and pulling of equipment and mail, in the performance of her job duties, were the direct cause of appellant's condition. Although his opinion generally supported causal relationship between the accepted employment factors and appellant's diagnosed conditions, Dr. Freedberg did not provide sufficient rationale explaining this conclusion. Further, his conclusions are largely based on appellant's opinion as to what caused her injuries, rather than by his independent analysis of the cause of her conditions.¹² A mere conclusion without the necessary rationale explaining how and why the physician believes that a claimant's accepted incident resulted in the diagnosed condition is insufficient to meet appellant's burden of proof.¹³ Accordingly, the Board finds that these medical reports are of little probative value on the issue of causal relationship.

In his November 14, 2018 letter, Dr. Freedberg opined that repetitive lifting, pushing and pulling of equipment and mail that weighed up to 75 pounds had a direct causal relationship on appellant's diagnosed conditions. While he provided an affirmative opinion on causal relationship, his opinion is insufficiently rationalized as he failed to explain the pathophysiologic mechanism by which the accepted employment factors caused, aggravated or accelerated appellant's injuries.

⁸ *C.D.*, Docket No. 17-2011 (issued November 6, 2018); *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁹ *E.V.*, Docket No. 18-1617 (issued February 26, 2019); *A.M.*, Docket No. 18-0685 (issued October 26, 2018).

¹⁰ *E.V.*, *id.*

¹¹ *B.J.*, Docket No. 19-0417 (issued July 11, 2019).

¹² *See D.L.*, Docket No. 15-0866 (issued November 23, 2015); *J.S.*, Docket No. 14-0818 (issued August 7, 2014).

¹³ *See Y.T.*, Docket No. 17-1559 (issued March 20, 2018).

Without explaining how the repetitive movements involved in appellant's employment duties caused or contributed to her injuries, his opinion is of limited probative value.¹⁴

In his September 26, 2018 work duty status form report, Dr. Freedberg marked a box noting that appellant was medically unable to perform work duties. However, he offered no opinion regarding the cause of appellant's medical conditions. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁵

Additionally, appellant submitted MRI studies of her right shoulder and cervical spine. The Board has held that diagnostic tests lack probative value as they do not provide an opinion on causal relationship between appellant's employment duties and the diagnosed conditions.¹⁶ Accordingly, the November 2, 2017 MRI studies are insufficient to establish causal relationship.

As there is no rationalized medical evidence of record explaining how appellant's accepted employment factors caused or aggravated her conditions, she has not met her burden of proof to establish that her conditions are causally related to the accepted factors of her federal employment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish right shoulder and cervical spine conditions causally related to the accepted factors of her federal employment.

¹⁴ See *A.P.*, Docket No. 19-0224 (issued July 11, 2019).

¹⁵ *R.Z.*, Docket No. 19-0408 (issued June 26 2019); *P.S.*, Docket No. 18-1222 (issued January 8, 2019).

¹⁶ See *J.M.*, Docket No. 17-1688 (issued December 13, 2018).

ORDER

IT IS HEREBY ORDERED THAT the December 3, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 16, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board